

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
CORPUS CHRISTI DIVISION

SAND STORAGE, LLC, §  
§  
Plaintiff, §  
VS. § CIVIL ACTION NO. 2:13-CV-00303  
§  
TRICAN WELL SERVICE, L.P., *et al.*, §  
§  
Defendants. §

**ORDER ADOPTING MEMORANDUM AND RECOMMENDATION  
ON THE PARTIES' DISPOSITIVE MOTIONS**

On October 27, 2014, United States Magistrate Judge Jason B. Libby issued his “Memorandum and Recommendation on the Parties’ Dispositive Motions” (D.E. 137). The parties were provided proper notice of, and opportunity to object to, the Magistrate Judge’s Memorandum and Recommendation. FED. R. CIV. P. 72(b); 28 U.S.C. § 636(b)(1); General Order No. 2002-13. No objections have been filed.

When no timely objection to a magistrate judge’s memorandum and recommendation is filed, the district court need only satisfy itself that there is no clear error on the face of the record and accept the magistrate judge’s memorandum and recommendation. *Guillory v. PPG Industries, Inc.*, 434 F.3d 303, 308 (5th Cir. 2005) (citing *Douglass v. United Services Auto Ass’n*, 79 F.3d 1415, 1420 (5th Cir. 1996)).

Having reviewed the findings of fact and conclusions of law set forth in the Magistrate Judge’s Memorandum and Recommendation (D.E. 137), and all other relevant documents in the record, and finding no clear error, the Court **ADOPTS** as its own the findings and conclusions of the Magistrate Judge. Accordingly, the Court:

- **GRANTS** Plaintiff's Unopposed Motion to Dismiss (Plaintiff's) Tort Claims Without Prejudice (D.E. 89) and **DISMISSES WITHOUT PREJUDICE** Plaintiff's claims for wrongful termination of the contract as a result of dishonest motive and breach of the implied covenants of the common law duties of good faith and fair dealing and honest and forthright performance;
- **GRANTS IN PART** Plaintiff's Re-Stated Consolidated Motions for Partial Summary Judgment and Related Dispositive Motions (D.E. 90) and **DISMISSES WITH PREJUDICE** Trican's claims regarding (1) delays in opening the silos, (2) damages arising from silo opening delays; and (3) delivering the incorrect grade of sand on December 14, 2011 and January 8, 2012. The Court **DISMISSES WITH PREJUDICE** Trican's claims for promissory estoppel and negligent misrepresentation; and
- **GRANTS IN PART** Defendants' Motions for Summary Judgment (D.E. 91) and **DISMISSES WITH PREJUDICE** Sand Storage's claim based on a duty of good faith and fair dealing separate from its breach of contract claim.

In all other respects not set out above, the motions are **DENIED**.

ORDERED this 17th day of December, 2014.

  
\_\_\_\_\_  
NELVA GONZALES RAMOS  
UNITED STATES DISTRICT JUDGE